

## NATIONAL CHILDREN'S ISLAND ACT OF 1995

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OCTOBER 17, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 1508]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1508) to require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "National Children's Island Act of 1995".

#### SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "plat" means the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92-252.

(2) The term "District" means the District of Columbia.

(3) The term "Islands" means Heritage Island and all of that portion of Kingman Island located south of Benning Road and within the District of Columbia and the Anacostia River, being a portion of United States Reservation 343, Section F, as specified and legally described on the Survey.

(4) The term "National Children's Island" means a cultural, educational, and family-oriented recreation park, together with a children's playground, to be developed and operated in accordance with the Children's Island Development Plan Act of 1993, D.C. Act 10-110.

(5) The term “playground” means the children’s playground that is part of National Children’s Island and includes all lands on the Islands located south of East Capitol Street.

(6) The term “recreation park” means the cultural, educational, and family-oriented recreation park that is part of National Children’s Island.

(7) The term “Secretary” means the Secretary of the Interior.

(8) The term “Survey” means the ALTA/ACSM Land Title Survey prepared by Dewberry & Davis and dated February 12, 1994.

### SEC. 3. PROPERTY TRANSFER.

(a) TRANSFER OF TITLE.—In order to facilitate the construction, development, and operation of National Children’s Island, the Secretary shall, not later than six months after the date of enactment of this Act and subject to this Act, transfer by quitclaim deed, without consideration, to the District all right, title, and interest of the United States in and to the Islands. Unbudgeted actual costs incurred by the Secretary for such transfer shall be borne by the District. The District may seek reimbursement from any third party for such costs.

(b) GRANT OF EASEMENTS.—(1) The Secretary shall, not later than six months after the date of enactment of this Act, grant, without consideration, to the District, permanent easements across the waterways and bed of the Anacostia River as described in the Survey as Leased Riverbed Areas A, B, C, and D, and across the shoreline of the Anacostia River as depicted on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252.

(2) Easements granted under paragraph (1) shall run with the land and shall be for the purposes of—

(A) constructing, reconstructing, maintaining, operating, and otherwise using only such bridges, roads, and other improvements as are necessary or desirable for vehicular and pedestrian egress and ingress to and from the Islands and which satisfy the District Building Code and applicable safety requirements;

(B) installing, reinstalling, maintaining, and operating utility transmission corridors, including (but not limited to) all necessary electricity, water, sewer, gas, necessary or desirable for the construction, reconstruction, maintenance, and operation of the Islands and any and all improvements located thereon from time to time; and

(C) constructing, reconstructing, maintaining, operating, and otherwise providing necessary informational kiosk, ticketing booth, and security for the Islands.

(3) Easements granted under paragraph (1) shall be assignable by the District to any lessee, sublessee, or operator, or any combination thereof, of the Islands.

(c) DEVELOPMENT.—The development of National Children’s Island shall proceed as specified in paragraph 3 of the legend on the plat or as otherwise authorized by the District by agreement, lease, resolution, appropriate executive action, or otherwise.

(d) REVERSION.—(1) The transfer under subsection (a) and the grant of easements under subsection (b) shall be subject to the condition that the Islands only be used for the purposes of National Children’s Island. Title in the property transferred under subsection (a) and the easements granted under subsection (b), shall revert to the United States 60 days after the date on which the Secretary provides written notice of the reversion to the District based on the Secretary’s determination, which shall be made in accordance with chapter 5 of title 5, United States Code (relating to administrative procedures), that one of the following has occurred:

(A) Failure to commence improvements in the recreational park within the earlier of—

(i) three years after building permits are obtained for construction of such improvements; or

(ii) four years after title has been transferred, as provided in subsection (a).

(B) Failure to commence operation of the recreation park within the earlier of—

(i) five years after building permits are obtained for construction of such improvements; or

(ii) seven years after title has been transferred, as provided in subsection (a).

(C) After completion of construction and commencement of operation, the abandonment or non-use of the recreation park for a period of two years.

(D) After completion of construction and commencement of operation, conversion of the Islands to a use other than that specified in this Act or conversion to a parking use not in accordance with section 4(b).

(2) The periods referred to in paragraph (1) shall be extended during the pendency of any lawsuit which seeks to enjoin the development or operation of National Children's Island or the administrative process leading to such development or operation.

(3) Following any reconveyance or reversion to the National Park Service, any and all claims and judgments arising during the period the District holds title to the Islands, the playground, and premises shall remain the responsibility of the District, and such reconveyance or reversion shall extinguish any and all leases, rights or privileges to the Islands and the playground granted by the District.

(4) The District shall require any nongovernmental entity authorized to construct, develop, and operate National Children's Island to establish an escrow fund, post a surety bond, provide a letter of credit or otherwise provide such security for the benefit of the National Park Service, substantially equivalent to that specified in paragraph 11 of the legend on the plat, to serve as the sole source of funding for restoration of the recreation park to a condition suitable for National Park Service purposes (namely, the removal of all buildings and grading, seeding and landscaping of the recreation park) upon reversion of the property. If, on the date which is two years from the date of reversion of the property, the National Park Service has not commenced restoration or is not diligently proceeding with such restoration, any amount in the escrow fund shall be distributed to such nongovernmental entity.

#### **SEC. 4. PROVISIONS RELATING TO LANDS TRANSFERRED AND EASEMENTS GRANTED.**

(a) **PLAYGROUND.**—Operation of the recreation park may only commence simultaneously with or subsequent to improvement and opening of a children's playground at National Children's Island that is available to the public free of charge. The playground shall only include those improvements traditionally or ordinarily included in a publicly maintained children's playground. Operation of the recreation park is at all times dependent on the continued maintenance of the children's playground.

(b) **PUBLIC PARKING.**—Public parking on the Islands is prohibited, except for handicapped parking, emergency and government vehicles, and parking related to constructing, and servicing National Children's Island.

(c) **REQUIRED APPROVALS.**—Before construction commences, the final design plans for the recreation park and playground, and all related structures, including bridges and roads, are subject to the review and approval of the National Capital Planning Commission and of the District of Columbia in accordance with the Children's Island Development Plan Act of 1993 (D.C. Act 10-110). The District of Columbia shall carry out its review of this project in full compliance with all applicable provisions of the National Environmental Policy Act of 1969.

#### **SEC. 5. EFFECT OF PROPERTY TRANSFER.**

(a) **EFFECT OF PROPERTY TRANSFER.**—Upon the transfer of the Islands to the District pursuant to this Act:

(1) The Transfer of Jurisdiction concerning the Islands from the National Park Service to the District dated February 1993, as set out on the plat map recorded in the Office of the Surveyor of the District as S.O. 92-252 and as approved by the Council of the District by Resolution 10-91, shall become null and void and of no further force and effect, except for the references in this Act to paragraphs 3 and 11 of the legend on the plat.

(2) The Islands shall no longer be considered to be part of Anacostia Park and shall not be considered to be within the park system of the District; therefore, the provisions of section 2 of the Act entitled "An Act to vest in the Commissioners of the District of Columbia control of street parking in said District", approved July 1, 1898 (ch. 543, 30 Stat. 570; D.C. Code 8-104), shall not apply to the Islands, and the District shall have exclusive charge and control over the Islands and easements transferred.

(3) The Islands shall cease to be a reservation, park, or public grounds of the United States for the purposes of the Act of August 24, 1912 (ch. 355, 37 Stat. 444; 40 U.S.C. 68; 8-128 D.C. Code).

(b) **USE OF CERTAIN LANDS FOR PARKING AND OTHER PURPOSES.**—Notwithstanding any other provision of law, the District is hereby authorized to grant via appropriate instrument to a nongovernmental individual or entity any and all of its rights to use the lands currently being leased by the United States to the District pursuant to the District of Columbia Stadium Act of 1957 (Public Law 85-300, September 7, 1957, 71 Stat. 619) for parking facilities (and necessary informational kiosk, ticketing booth, and security) as the Mayor of the District in his discretion may determine necessary or appropriate in connection with or in support of National Children's Island.

**SEC. 6. SAVINGS PROVISIONS.**

No provision of this Act shall be construed—

- (1) as an express or implied endorsement or approval by the Congress of any such construction, development, or operation of National Children's Island;
- (2) except as provided in section 5, to exempt the recreational park and playground from the laws of the United States or the District, including laws relating to the environment, health, and safety; or
- (3) to prevent additional conditions on the National Children's Island development or operation to mitigate adverse impacts on adjacent residential neighborhoods and park lands and the Anacostia River.

**PURPOSE OF THE BILL**

The purpose of this bill is to transfer title of Kingman and Heritage Islands to the District of Columbia to facilitate development of a theme park and a free playground.

**BACKGROUND AND NEED FOR LEGISLATION**

Several years ago, a private philanthropist approached the District of Columbia (DC) government with a proposal to fund a project to convert several man-made islands in the Anacostia River to a children-oriented theme park. These islands are currently used by the District government as a dumping site for excavation soil and demolition rubble. Although there have been several previous proposals for similar development of these lands, none of these proposals advanced past the conceptual planning stage.

In 1992, the National Park Service (NPS) approved the transfer of Heritage and Kingman Island on a long-term lease to the District government. In 1993, the National Capital Planning Commission and the District of Columbia Council approved the transfer. Immediately thereafter, the Sierra Club sued, challenging the authority of the Secretary of the Interior to transfer lands absent an environment impact statement. That suit eventually prevailed, and the NPS is now in the process of preparing that documentation.

The project is being developed without government funding and would provide not only for revenues for the District, but also jobs and contracts for DC residents. The development and operation of the theme park would be the responsibility of the nonprofit National Children's Island Foundation. Funds from the project would be used for educational grants and youth scholarship programs for DC teachers and students, and job programs for DC youth.

Projected benefits of the program include the following:

- Creation of 1500 new full and part time jobs
- At least 50 percent of the concessions granted to DC businesses
- \$8.2 million in tax revenues and \$4.1 million in parking revenues annually

**COMMITTEE ACTION**

H.R. 1508 was introduced on April 18, 1995, by Delegate Norton. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Forests and Lands. On May 18, 1995, the Subcommittee held a hearing on H.R. 1508. On June 27, 1995, the Subcommittee met to mark up H.R. 1508 and ordered it reported without amendment. On September 13, 1995, the Full Resources Committee met to consider H.R.

1508. An amendment in the nature of a substitute was offered by Mr. Hansen, and adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives, in the presence of a quorum.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

The short title of the bill is the “National Children’s Island Act of 1995”.

##### *Section 2. Definitions*

This section provides eight definitions for the bill.

##### *Section 3. Property transfer*

This section outlines the terms and conditions for the transfer of title to Heritage Island and portions of Kingman Island from the Secretary of the Interior to the government of the District of Columbia.

Subsection (a) provides that the Secretary shall transfer fee title of the lands to the District of Columbia. While this is not the normal process for transfer of Federal lands to the District of Columbia, the Committee believes that such an approach is best in this case, since it will provide a greater level of autonomy to the District for carrying out its plans for the island, and for obtaining financing for its plans.

Subsection (b) provides that the Secretary of the Interior shall grant any necessary utility corridor easements across Federal lands to carry out this project.

Subsection (d) establishes a reversionary clause for Federal lands to be transferred under the bill. This subsection outlines the tests which will be considered in the determination of a reversion by the Secretary, but specifies that time periods as set forth in these tests shall be extended during the tendency of any lawsuit which seeks to enjoin the development or operation of the islands or the administrative process leading to such development or operation. In the event of a reversion, the District shall be responsible for any claims and judgments arising during the period for which the District had title to the property, and shall ensure that any nongovernmental entity authorized to carry out and operate National Children’s Island shall post necessary bonds to provide for restoration of the island in the event of a reversion.

##### *Section 4. Provisions relating to lands transferred and easements granted*

This section of the bill sets forth a number of other provisions relating to the land transfer.

Subsection (a) requires that a free public playground be established and opened at the same time that the recreation park is open to the public.

Subsection (c) requires that planning for the project shall be carried out in accordance with the Children’s Island Development Plan Act of 1993 (D.C. Act 10–110), and with the National Environ-

mental Policy Act. It further provides for approval of the project by the National Capital Planning Commission.

*Section 5. Effect of property transfer*

This section clarifies that the transfer of this property means that the islands shall no longer be managed as part of Anacostia Park.

*Section 6. Savings provision*

This section clarifies that the Act is not intended as a Congressional endorsement of the National Children's Island project or that the development of such project be exempt from any other laws pertaining to the United States or the District.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1508 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1508 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1508.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1508 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 26, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1508, the National Children's Act of 1995, as ordered

reported by the Committee on Resources on September 13, 1995. CBO estimates that H.R. 1508 would result in no significant cost to the federal government and in no cost to state or local governments. Enacting H.R. 1508 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 1508 would require the federal government to transfer, without compensation, title to certain property and easements to the District of Columbia to facilitate the construction of the proposed National Children's Island, a recreational park and playground approved by the District of Columbia under the Children's Island Development Plan Act of 1993. The bill would require the Department of the Interior (DOI) to make the transfer within six months of enactment. H.R. 1508 also would provide for transferring the property back to the federal government if development or operation fails to meet specified timetables, if the park ceases activity for a period of two years, or if the property is converted to a use that is not authorized by the bill.

Under the bill, the District of Columbia would be responsible for any costs incurred by DOI in transferring the property. If ownership of the property reverts to the federal government, it would be held harmless against any claims or judgments that arose while the District of Columbia held title. The bill also would require that any developer or operator establish an escrow fund, post a surety bond, or provide a letter of credit sufficient to return the property to a condition suitable for use by the National Park Service.

The property that would be conveyed under this bill is neither generating today nor likely to generate income in the future. Thus, CBO estimates that the transfer would result in no loss of receipts to the federal government. We also estimate that DOI would not incur any significant costs in conducting the transfer.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

#### CHANGES IN EXISTING LAW

If enacted, H.R. 1508 would make no changes in existing law.

#### DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 1508.





## A P P E N D I X

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES,  
*Washington, DC, October 13, 1995.*

Hon. WILLIAM F. CLINGER, Jr.,  
*Chairman, Committee on Government Reform and Oversight, Ray-  
burn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: On April 7, 1995, Delegate Norton introduced H.R. 1508, the National Children's Island Act of 1995. The bill was referred primarily to the Committee on Resources, as well as the Committee on Government Reform and Oversight. The bill requires the Federal Government to transfer title to certain Federally-owned property to the District of Columbia to facilitate the construction of a recreational park and playground.

On September 13, 1995, the Committee on Resources ordered the bill favorably reported, with an amendment. We are now ready to file our report on the measure, which under the Rules of the House will necessarily limit your referral.

I understand that you have had a chance to review the legislation as reported and are willing to waive your full sequential referral over H.R. 1508 and allow it to be discharged. Of course, this waiver would not prejudice any future action by your Committee on similar legislation. In addition, I would strongly support your request to be represented on any conference on this bill.

I deeply appreciate your cooperation in this matter and look forward to working with you and Chairman Tom Davis on this legislation. I would also be pleased to include this letter in our report on the bill.

Sincerely,

DON YOUNG, *Chairman.*

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